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The time to move on creating a Statewide Office of the Children's Advocate is now

By Jan Pudlow
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Howard Talenfeld, the new chair of The Florida Bar's Legal Needs of Children Committee, is on a mission to make a seven-year-old dream come true.

In 2002, the Number One priority and unanimous recommendation of the committee's predecessor, the Legal Needs of Children Commission, was to create a Statewide Office of the Children's Advocate, to oversee both legal attorney-client and guardian ad litem representation to children in court.



For three years, that original hardworking group of Florida lawyers, judges, and experts on children's issues, chaired by 11th Circuit Judge Sandy Karlan, wrestled with how best to represent children in court — whether in dependency, delinquency, civil, probate and guardianship, domestic violence, or high-conflict custody proceedings.

In the end, they envisioned the new office would play a critical role in providing a voice for children so they can meaningfully present their positions and needs and wishes to the court. A key consideration was the independence of the office from other participants in litigation, so its actions on behalf of children would not be compromised. (The public defender would still represent children charged with crimes.)

Talenfeld says now is the time to reach consensus and push for legislation to finally make it happen, and he has a powerful ally: Florida Bar President Jesse Diner.

"As you all know, the Legal Needs of Children Commission in 2002 filed a report, and some of that work is done and accomplished and some of it is not," Diner told the committee when it met during the Bar's Annual Convention in Orlando.

"So I would hope that you all could develop consensus on what you are going to try to push forward this year. And Howard could come before the Board of Governors and ask for the board's blessing to go forward and try to reach a legislative initiative that would be successful," Diner said.

"But it starts here with this committee and building consensus. . . I urge that you do it sooner rather than later."

It's been too long, as it is, Talenfeld said. He recounted the history to his committee, "so you can understand the importance of what we are about to do, and the intensity and challenges behind the struggle, and why it is so critical we reach this consensus, and then take this consensus to the Board of Governors, and then ultimately to the Florida Legislature — so that we can see the vision of that commission come true."

Diner noted that to help with the heavy-lifting, he appointed three vice chairs who hold leadership positions at the Department of Children and Families, the agency charged with the supervision of 19,747 foster children: John Copelan, general counsel; Alan Abramowitz, state director of the Office of Family Safety; and Mary Cagle, statewide director of Children's Legal Services.

The history begins a decade ago, when, in July 1999, then Bar President Edith Osman created the Legal Needs of Children Commission.

"Unfortunately, everyone had different views of representation," Talenfeld recounted. "They heard from scores and scores of witnesses and experts from all over the state, experts from all over the country, and then some even out of the country, on how we can attempt to create a system of representation for purposes of protecting our children."

After two years, the commission's term was extended a year, and in 2002, it issued its final report, available to read on the Bar's Web site. (Go to [. Click on "Inside the Bar," then "Committees," then "Standing Committees," and you will find the "Legal Needs of Children Committee" page, where there is a link to the commission's 2002 final report.](#))

Eleventh Circuit Public Defender Carlos Martinez chaired the commission's Representation Subcommittee.

"I don't know how Carlos got everyone onto the same page," Talenfeld said. "That by itself was an amazing accomplishment."

Finally, during a period Talenfeld calls "the Crusades," of clashing opinions on how best to represent children in court, emerged the position of creating the Statewide Office of the Children's Advocate, "trying to create a Division of Legal Counsel and a Division of Guardian ad Litem under one umbrella."

Since the standing committee was confirmed in 2004, Talenfeld recounted how the Guardian ad Litem Program has been moved from the Office of the State Courts Administrator into the Justice Administrative Commission, and appropriations have been increased so that currently 84 percent of children in dependency proceedings have GALs, up from 50 percent in 2002.

"That by itself is an accomplishment," Talenfeld continued. "But we still have that much more to go in the context that we're 10 years later now."

Last year, outgoing committee Chair Dennis Moore and former committee Chair Gerry Glynn took the commission's recommendations and reduced them into draft legislation.

"We have to achieve a consensus, or it just doesn't work," Talenfeld said. "We all have to give and take in order to achieve that, or we'll never get it through the Legislature."

Talenfeld said he hopes to have "one final meeting" during the Dependency Summit August 26-28 before presenting it to the Board of Governors at its September meeting. There will likely be concerns to iron out, Talenfeld said, and 17th Circuit Judge John Frusciante "is going to lead the way for the judges of Florida. He has graciously taken on that torch."

"Yes, we have to reach consensus," Glynn agreed, as he passed out copies of the proposed legislation.

"But the mission of this committee is to carry out the report of the commission. . . I understand that once it leaves the Bar, there are a lot of changes that will occur in the legislative process. But my goal, in the ad hoc committee of drafting this particular piece, was to keep as close as we can, while trying to keep consensus on issues, to not deviate from the vision of the commission."